

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1197 of 2017**

Rajkumar @ Merwa S/o Late Manbodh Singh, Aged About 27 Years
R/o Village Salihabhata Renki, Police Station Hardi Bazar, Civil And
Revenue District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Chowki
Hardi Bazar, Police Station Kusmunda, Civil And Revenue District
Korba Chhattisgarh.

---- Respondent

For applicant	Mr. Gurudev I. Saran, Adv.
For Respondent/State	Mr. Anant Bajpai, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17/04/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 11-10-2016 in connection with Crime No. 159/2016 registered in PS Kusmunda, Distt. Korba for offence punishable under Section 450, 376 and 506-B of the IPC. Charge sheet has been filed and the same is pending before the JMFC, Korba as Criminal Case no. 209/2016.
3. Earlier on 8-3-2017, the Court directed for verification of affidavit of the complainant whether any incident has happened or not.
4. Learned counsel for the applicant submits that there is no such verification. As per alleged affidavit, the prosecutrix on oath before the notary has submitted that the applicant entered into her room and she being frightened to see the accused, left her room to her maternal mother-in-law and informed her relatives and at the instance of her relatives she had lodged the report and the applicant has not committed any sexual intercourse with her. Learned counsel further submitted that the prosecutrix is aged about 27 years, mother of three

children. With this the charge leveled against the present applicant is not proper as in normal circumstance, the act of rape is not possible. Hence the applicant may be enlarged on bail.

5. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that the complainant gave her statement under Section 161 of the Cr.P.C. and also before the JMFC under Section 164 of the Cr.P.C. where she gave entire material as in her statement under Section 161 of the Cr.P.C. which goes to show that the applicant trespassed in the house of the prosecutrix and the applicant shifted the children to other cot and gave her threatened showing her sickle to take the life. Thereafter he committed sexual intercourse. Hence the act of the applicant is of serious nature.
6. Perused the entire material.
7. As per settled law, any affidavit before the notary is not for consideration unless and until the opportunity to enter into the defence of the evidence given. For the moment this court has to consider the prayer for bail in the light of prima facie material collected during investigation.
8. After perusal of the statement of the prosecutrix under Section 161 and 164 of the Cr.P.C. and other material facts, I am not inclined to grant bail to the applicant.
9. Consequently, instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge